

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
New York State Public Service Commission)	NSD-L-01-159
)	CC Docket 96-98
Request for Delegated Authority)	
For Jurisdiction over Area Code Changes)	
Pursuant to 47 U.S.C. § 251(e)(1))	

**COMMENTS OF
FOCAL COMMUNICATIONS CORPORATION**

Focal Communications Corporation of New York (“Focal”) submits these comments in response to the New York State Public Service Commission’s (“PSC”) request in the above-referenced proceeding.¹ Focal is a facilities-based competitive local exchange carrier (“CLEC”) that offers both voice and data services to large corporations, value-added resellers and Internet service providers in the state of New York.

Focal has substantial concerns regarding the PSC’s request and urges the Commission to deny it at this time. The PSC’s request asks for authority to adopt guidelines for area code changes that may conflict with federal goals underlying the current area code management regime. In the *Local Competition Second Report and Order*, the Commission granted the states limited authority in implementing specific area code relief, but required all states to be subject to federal guidelines of area code management.² These federal guidelines are essential to ensure that competitive carriers are subject to rationale area code relief plans that will not cause them unnecessarily to expend substantial resources and to ensure that the North American Numbering Plan

¹ *Common Carrier Bureau Seeks Comment on the New York State Public Service Commission’s Request for Delegated Authority for Jurisdiction Over Area Code Changes Pursuant to 47 U.S.C. § 251(e)(1)*, Public Notice, NSD File No. L-01-159, released January 10, 2002.

² *Implementation of the Local Competition Provisions of the Telecommunications act of 1996, et. al.*, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, ¶ 272 (1996) (*Local Competition Second Report and Order*).

(“NANP”) is not prematurely exhausted. By requesting authority to modify area code boundaries for purely political reasons, the PSC’s request asks for authority in essence to adopt its own guidelines for area code management. Because this could harm competition by imposing unnecessary numbering costs on carriers and could undermine the extension of the NANP, the Commission should decline to delegate such broad authority to a state commission.

I. The Commission Should Retain Authority on Broad Policies of Area Code Management

The Telecommunications Act of 1996 grants the Commission jurisdiction to administer telecommunications numbering and to make such numbers available on an equitable basis. 47 U.S.C. § 251(e)(1). Although the Commission recognized the value added by state commissions in actually administering area code relief plans, the Commission has adopted broad federal guidelines to which states must adhere. The guidelines include the facilitation of competition by making numbering resources available, and the prohibition from favoring a particular industry, group of customers or technology.³ It was within this framework that the Commission ruled that a state could not adopt a wireless-only overlay plan, because such a plan would be unreasonably discriminatory.⁴ These federal guidelines have been very helpful to carriers in ensuring some level of consistency regarding the area code relief process. While area code relief is difficult for consumers, it is also difficult for carriers. Carriers are required to expend substantial resources reprogramming equipment, reconfiguring their networks and educating customers in response to an area code change.

The PSC’s request, if granted, would insert substantial uncertainty into this process and could cause harm to competitive carriers. The PSC suggests that it should be

³ *Local Competition Second Report and Order*, at ¶ 281.

⁴ *Id.*

able to grant area code relief to a community for reasons unrelated to area code exhaust.⁵ For instance, one community in New York wishes to have its own area code, and another community wishes to be included in the 845 area code, “where it has economic and political ties.”⁶ These rationales are certainly outside of the guidelines governing area code relief and would likely require unnecessary area code changes that could impose substantial costs on carriers. Moreover, haphazard area code changes could threaten premature exhaust of the NANP. As the Commission noted in its *Numbering Resource Optimization Order*, “[t]he rapid depletion of numbering resources nationwide and the potential it creates for NANP exhaust are national problems that must be dealt with at the federal level.”⁷ Moreover, the Commission has also recognized the need for uniform standards for area code conservation such as number pooling. The Commission stated, “uniform standards for thousands-block number pooling are necessary to minimize the confusion and additional expense related to compliance with inconsistent regulatory requirements.”⁸

The Commission should certainly refrain from retreating on uniform standards for the rationales underlying area code relief. If the PSC’s request is granted, state commissions could be permitted to adopt their own guidelines for when area code relief should be granted, which could be based on reasons completely unrelated to area code exhaust. This environment would be highly undesirable for several reasons. First, state commissions could harm competition by requiring carriers to spend excessive resources on unnecessary area code relief plans. Using the examples in the PSC’s request, the state commission could adopt a new area code for a particular community even though the current area code is not nearing exhaust. This would require carriers to go through the

⁵ NYPSC request, at 3.

⁶ *Id.*

⁷ *In the Matter of Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, at ¶ 3 (rel. March 31, 2000) (“*Numbering Resource Optimization Order*”)

⁸ *Numbering Resource Optimization Order*, at ¶ 169.

substantial expense of area code relief, including education of consumers, reprogramming its switches and reconfiguring its network, for a new area code that is not necessary for exhaust reasons. Similarly, changing one community's area code for political reasons would result in the same unnecessary expenditure of resources. Moreover, unnecessary area code changes and shifts could allow numbering resources to be used inefficiently and cause premature exhaust of the NANP.

While the Commission has found that state commissions are "uniquely positioned to determine which type of area code relief would best serve local needs," the PSC's request has demonstrated that state commissions are also uniquely positioned to be unduly influenced by political matters. As the Commission has noted, the problems of NANP exhaust are a national concern. Similarly, encouraging local competition is a national goal of the 1996 Telecommunications Act. The Commission should not permit a state commission's desire to please certain constituencies to cause carriers unnecessary costs and to risk the inefficient use of numbering resources.

For these reasons, the Commission should deny the PSC's request.

Respectfully submitted,

/s/

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